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SUBJECT: A REVIEW OF SWITZERLAND'S HUMAN RIGHTS DIALOGUE

11. (SBU) SUMMARY: Vietnam and Switzerland held the seventh round of their bilateral human rights dialogue March 13-18 in Vietnam. Reviewing the formal discussions, the Swiss Embassy official responsible for the talks said that Vietnam takes the UN Universal Periodic Review process seriously and signaled that it is moving toward acceding to the Convention Against Torture; at the same time, the indictment of Sudanese President Omar al-Bashir has indefinitely derailed Vietnam's entry into the International Criminal Court. Vietnam's prison reform program continues to make progress, and the Swiss delegation was able to visit a pretrial detention facility in Ninh Binh Province. In both their formal dialogue and in a meeting with the Communist Party, the Swiss raised continuing concerns over catch-all provisions in Vietnam's national security criminal code (Article 88). Prior to the start of the official talks, the delegation discussed assistance cooperation with several ministries and met with lawyers, a panel of NGOs, and one prominent dissident. Overall, the Swiss seem generally pleased with the direction their dialogues are taking, noting that the Vietnamese side appears much more at ease now than in years past. The challenge is to continue to be constructive, while remaining substantive. END SUMMARY.

Visit to Ninh Binh  
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12. (SBU) On March 23, Deputy PolCouns met with Swiss First Secretary Tanja Zangger to discuss the seventh annual Swiss-Vietnam human rights dialogue, which took place March 13-18 in Vietnam. The Swiss delegation, headed by Switzerland's Special Envoy for Human Rights Rudolf Knoblauch, began with a March 13-15 visit to Ninh Binh Province. (According to Zangger, it has become customary for formal discussions to be complemented by site visits.) In Ninh Binh, the group met with local authorities, visited a church and a Buddhist Pagoda, and inspected a Swiss-funded project to combat domestic violence.

13. (SBU) The main focus of the Ninh Binh trip, however, was to discuss Vietnam's ongoing program of prison reform, which Zangger described as an area of marked progress that Vietnam is eager to showcase. The delegation, which included two experts in prison management, visited the Ministry of Public Security's new school for prison staff, as well as a pretrial detention facility. According to Zangger, it has become obvious in the two years that the Swiss have been involved with the GVN that physical abuse is rare in Vietnam's prison system; as is frequently the case, abuse of detainees, when it occurs, takes place in pretrial detention. For this reason, she said that the visit to the pretrial detention center was significant, as is the fact that the training facility includes courses on the ethical treatment of pretrial detainees.

Discussions with Lawyers and a Prominent Dissident  
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14. (SBU) Returning to Hanoi March 15, the delegation met with a panel of legal experts, including long-time U.S. Embassy contacts Professor Hoang Ngoc Giao from the Institute on Policy, Law, and

Development and the Chairman of the Vietnam Lawyers Association Pham Quoc Anh. Later in the afternoon, the delegation met with prominent dissident Pham Hong Son, who remains in "administrative detention." Sensitive to possible Vietnamese concerns, the Swiss Ambassador notified the MFA well in advance, Zangger said. According to Zangger, the Vietnamese were "not pleased," but did nothing to prevent or obstruct the meeting. After the formal talks concluded, the delegation also convened a roundtable on March 18 with local NGOs active in women's rights, ethnic minority affairs, and the fight against corruption.

#### A Focus on Assistance Prior to the Dialogue

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15. (SBU) Official discussions in Hanoi began March 16, with meetings with the Ministry of Labor, Invalids, and Social Affairs (MOLISA) office in charge of gender equality; MPS officials responsible for prisons and human rights matters; the Committee on ethnic Minorities; the Ministry of Science and Technology (MOST) department responsible for implementing portions of Vietnam's law on domestic violence; and the Ministry of Justice (MOJ). According to Zangger, these discussions -- coming the day before the formal dialogue -- focused mainly on technical assistance and cooperation.

#### The Formal Dialogue

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16. (SBU) Although the visit lasted five days, the formal talks themselves comprised only a half day of talks March 17. The MFA's Director General for International Organizations Le Hoai Trung led Vietnam's delegation, which included representatives from the Office of Government, the MPS, MOLISA, MOJ, the Supreme Court, the

HANOI 00000272 002 OF 002

Procuracy, the Committee on Religious Affairs, and the Committee on Minority Affairs. Zangger said that the discussions were organized around four "clusters": 1) International human rights issues, 2) Criminal law and procedure, and prison administration, 3) Gender issues and women's rights, and 4) Minority rights and religious freedom. Following the formal dialogue, the Swiss met with Nguyen Ding Luc, who heads the Communist Party's Department of Law and Judicial Reform.

17. (SBU) Discussion during the first cluster centered on Vietnam's Universal Periodic Review (UPR), which will take place in Geneva, and on the Rome Statute or the International Criminal Court (ICC). According to Zangger, the Swiss delegation came away with the impression that Vietnam takes the review process seriously and will take on board the Review's recommendations, provided the wording is "appropriate." On the ICC, DG Trung confirmed that the indictment of Sudan President Omar al-Bashir would significantly delay any decision to accede to the Rome Statute, possibly for several years.

18. (SBU) Moving to the second cluster, Zangger said that the Swiss had submitted a list of "individuals of concern" prior to the dialogue, together with an official request for information; the dialogue itself, however, did not focus on individual cases. She said that after receiving information, the Swiss would confer with G4 Partners Canada, Australia, and New Zealand and submit a joint list of "prisoners of concern" prior to the next amnesty. Zangger said that Vietnam indicated that it would reduce the number of criminal offenses subject to the death penalty from 29 to 21. Vietnam also said that it was moving forward with its inter-agency review of the Convention Against Torture and saw "no big problems" in revising its penal code to bring it into conformity. The Swiss raised Vietnam's catch-all national security provision, Article 88, arguing that the Article's wording was overly vague, provided for disproportionate sentences, and did not usefully distinguish between violent and non-violent acts. The delegation also raised Article 88 in their meeting with the CPV. The Vietnamese displayed less defensiveness than in the past on Article 88, but gave little ground.

19. (SBU) On women's rights, Zangger said that this was an area where the GVN was making good progress on policy, but questions remained on implementation. She said that the Swiss were quite

active in this area. On religious freedom, Zangger reported that Vietnam was considering acceding to the Convention for the Elimination of Racial Discrimination. Vietnam briefed the Swiss side on talks with the Vatican and surmised that it might be possible to normalize relations before the Chinese.

#### COMMENT

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¶10. (SBU) Zangger said that both sides appear pleased with how the talks have developed. The Vietnamese side, she continued, was much more at ease now than in years past, even when confronted with sensitive issues such as Article 88. (Zangger has also worked on Switzerland's bilateral human rights dialogue with the Chinese, whom she said were typically much more defensive.) For its part, the Vietnamese side views its several human rights dialogues as a way to discuss issues in a more discreet, bilateral setting -- and to deflect criticism that might otherwise be voiced in a public, multilateral forum. The challenge for both sides, Zangger stressed, is to continue to be constructive while remaining substantive. The Swiss experience is something to consider as we move toward our own dialogue in the late spring or early summer.